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SECOND DIVISION

[Adm. Case No. 4426. February 17, 2000]

RAMON SAURA, Jr., *complainant, vs.* **ATTY. LALAINE LILIBETH AGDEPPA,** respondent.

[Adm. Case No. 4429. February 17, 2000]

HELEN BALDORIA and RAYMUNDO SAURA, *complainants, vs.* **ATTY. LALAINE LILIBETH AGDEPPA,** *respondent.*

SYNOPSIS

Two administrative complaints were filed by complainants Ramon Saura, Jr. and Helen S. Baldoria, before the Court charging herein Atty. Lalaine Agdeppa for violation of her lawyer's oath and disregard of Sections 15, 22, 25, 31, and 32 of the Canons of Professional Ethics. The two complaints stemmed from the handling by the respondent of a settlement case involving a piece of property owned in common by the petitioners with their other siblings. It appeared that herein respondent refused to disclose the amount of the sale or account for the proceeds of the properties involved in the settlement of estate which was sold to Sandalwood Real Estate and Development Corporation. In the report, the National Grievance Investigation Office of the Integrated Bar of the Philippines recommended that for continued defiance to answer the administrative charges against her, respondent was recommended to be penalized with a fine of ₱10,000.00 and suspension from practice for one year in each of the two cases pending against her. Respondent contended that she was not accorded due process and she could not answer the administrative charges against her without divulging certain pieces of information in violation of the attorney-client privilege.

Respondent's contention is not meritorious. Respondent was given notices on various occasions but she chose to ignore them and failed to exercise her right to be heard. Moreover, the information requested by petitioners is not privileged. The petitioners are only asking for the disclosure of the amount of the sale or account for the proceeds. Petitioners have the right to ask for such information since they own the property as co-heirs of the

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late Ramon Saura and as co-administrators of the property. Hence, respondent cannot refuse to divulge such information to them and hide behind the cloak of the attorney-client relationship. Accordingly, for refusing to answer the administrative charge against her, respondent is penalized with a fine of two thousand pesos which should be paid within ten days from receipt hereof.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; PRIVILEGED COMMUNICATION; REQUEST FOR INFORMATION REGARDING THE SALE OF THE PROPERTY AND TO ACCOUNT FOR THE PROCEEDS IS NOT A VIOLATION OF THE ATTORNEY-CLIENT PRIVILEGE.—** The request for the information regarding the sale of the property and to account for the proceeds is not a violation of the attorney-client privilege. Rule 130, Section 24 (b) of the Rules of Court provides: "Sec. 24. *Disqualification by reason of privileged communication.* — The following persons cannot testify as to matters learned in confidence in the following cases: x x x (b) An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of, or with a view to, professional employment, nor can an attorney's secretary, stenographer, or clerk be examined, without the consent of the client and his employer, concerning any fact the knowledge of which has been acquired in such capacity." The information requested by petitioners is not privileged. The petitioners are only asking for the disclosure of the amount of the sale or account for the proceeds. Petitioners certainly have the right to ask for such information since they own the property as co-heirs of the late Ramon E. Saura and as co-administrators of the property. Hence, respondent cannot refuse to divulge such information to them and hide behind the cloak of the attorney-client relationship.

2. **LEGAL AND JUDICIAL ETHICS; RESPONDENT LAWYER IS PENALIZED WITH A FINE OF ₱2,000.00 FOR FAILURE TO COMPLY WITH THE COURT'S RESOLUTION.—** Since respondent repeatedly ignored the notices sent to her by the Court, we cannot be expected to wait indefinitely for her answer. While respondent may have changed her address and did not, thus, receive the previous notices, still, on March 2, 1998, she came to know of the Supreme Court Resolution dated June 19, 1995. The prudent thing for her to do was to file an answer immediately and not to

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delay the matter any further. Sadly, the respondent ignored the Resolution of the Supreme Court ordering her to file an answer. x x x WHEREFORE, for the refusal of Atty. Lalaine Lilibeth Agdeppa to comply with our Resolutions dated June 7 and 19, 1995 directing her to file an answer to the petitions, the Court hereby penalizes her with a *FINE* of two thousand pesos (₱2,000.00) which should be paid within ten (10) days from receipt hereof; otherwise, a penalty of imprisonment for five (5) days shall be imposed.

APPEARANCES OF COUNSEL

Paras Reynes and Manlapaz for Ramon Saura, Jr.
Gaveroalonzo & Associates for petitioners in AC 4429.

RESOLUTION

DE LEON, JR., *J.:*

Two (2) petitions, one by Ramon Saura, Jr.[1] and the other by Helen S. Baldoria and Raymundo Y. Saura,[2] were filed before this Court charging Atty. Lalaine Lilibeth Agdeppa for violation of her lawyer's oath and disregard of Sections 15, 22, 25, 29, 31 and 32 of the Canons of Professional Ethics.[3]

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[1] Dated May 17, 1995 and docketed as Adm. Case No. 4426.

[2] Dated May 24, 1995 and docketed as Adm. Case No. 4429.

[3] "15. How far a lawyer may go in supporting a client's cause.

'Nothing operates more certainly to create or foster popular prejudice against lawyers as a class, and to deprive the profession of that full measure of public esteem and confidence which belongs to the proper discharge of its duties than does the false claim, often set up by unscrupulous for the defense of questionable transactions, that it is the duty of the lawyer to do whatever may enable him to succeed in winning his client's cause.

'It is improper for a lawyer to assert in argument his personal belief in his client's innocence or in the justice of his cause.

'The lawyer owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. No fear of judicial disfavor or public popularity should restrain him from full discharge of his duty. In the judicial forum the client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his lawyer to assert every

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The two (2) complaints are related and arose from the handling of the respondent of a settlement case involving a piece of property owned in common by the petitioners with their other siblings,

such remedy or defense. But it is steadfastly to be borne in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicanery. He may obey his own conscience and not that of his client.

"22. *Candor and fairness.*

'The conduct of the lawyer before the court and with other lawyers should be characterized by candor and fairness.

'It is not candid nor fair for the lawyer knowingly to misquote the contents of a paper, the testimony of a witness, the language or the argument of opposing counsel, of the language of a decision or a textbook; or with the knowledge of its invalidity, to cite as authority a decision that has been overruled or a statute that has been repealed, or in argument to assert as a fact that which has not been proved, or in those jurisdictions where a side has an opening and closing arguments to mislead his opponent by concealing or withholding positions in his opening argument upon which his side he intends to rely.

'It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.

'A lawyer should not offer evidence which he knows the court should reject, in order to get the same before the jury by arguments for its admissibility, nor should he address to the judge arguments upon any points not properly calling for determination by him. Neither should he introduce into an argument, addressed to the court, remarks or statements intended to influence the by-standers.

"25. *Taking technical advantage of opposite counsel; agreements with him*

'A lawyer should not ignore known customs or practice of the bar or of a particular court, even when the law permits, without giving timely notice to the opposite counsel. As far as possible, important agreements, affecting the rights of clients should be reduced to writing, but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing, as required by the Rules of Court.

"29. *Upholding the honor of the profession*

'Lawyers should expose without fear or favor before the proper tribunal corrupt or dishonest conduct in the profession, and should accept without hesitation employment against a member of the bar who has wronged his client. The counsel upon the trial of a cause in which perjury has been committed owes it to the profession and to the public to bring the matter to the knowledge of the prosecuting authorities. The lawyer should aid in guarding the bar against admission to the profession of candidates unfit or unqualified because a deficient

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Macrina, Romeo and Amelita, all surnamed Saura, who were then the administrators of the said property of the late Ramon E. Saura who died intestate on May 15, 1992.

The pertinent facts, as delineated in the report of the National Grievance Investigation Office of the Integrated Bar of the Philippines, are as follows:

"It appears that negotiations for the settlement of the property (referring to the intestate estate of Ramon E. Saura) dragged on for three (3) years until on April 27, 1995, petitioners learned that the administrators of the property, Macrina, Romeo and Amelita, had, with the assistance of the respondent, who in fact notarized the Deed of Sale, sold the property to Sandalwood Real Estate and Development Corporation without the knowledge and participation of petitioners. To compound matters,

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in either moral character or education. He should strive at all times to uphold the honor and to maintain the dignity of the profession and to improve not only to the law but the administration of justice.

"31. *Responsibility for litigation.*

'No lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline employment. Every lawyer upon his own responsibility must decide what employment he will accept as counsel, what causes he will bring into court for plaintiffs, what case he will contest in court for defendants. The responsibility for advising as to questionable defenses is the lawyer's responsibility. He cannot escape it by urging as an excuse that he is only following his client's instructions.

"32. *The lawyer's duty in its last analysis.*

'No client, corporate or individual, however powerful nor any cause, civil or political, however important, is entitled to receive nor should any lawyer render any service or advise involving disloyalty to the laws whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interest of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advice his client to observe the statute law through until a statute shall have been construed and interpreted by competent adjudication he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.'

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petitioners alledge [sic] that despite repeated demands, the vendors or their counsel, *respondent herein, have refused to disclose the amount of the sale or account for the proceeds.* The petitioners have thus been constrained to institute criminal and civil actions to enforce and protect their rights.

"This case was refered [sic] to the Integrated Bar by the Supreme Court in a resolution dated November 20, 1995, after its earlier resolution dated June 19, 1995, was returned unserved with the Postmaster's notation that the same was "unclaimed".

"At the scheduled hearing of this case on February 5, 1998, the petitioner's counsel, Atty. Carolina Esguerra-Ochoa filed a written entry of appearance. *There was no appearance for the respondent* but this office, noting the new address of the respondent as furnished by Atty. Ochoa, suggested that the latter furnish a copy of the complaint to respondent at the latter's new address. In a Compliance dated February 10, 1998, Atty. Ochoa informed this Office that she had furnished the respondent with a copy of the petition dated May 24, 1995, plus the Supreme Court's resolution dated June 19, and November 20, 1995, plus our Order dated December 8, 1997, and Notice of Appearance dated February 5, 1998.

"On March 10, 1998, the petitioners' counsel submitted a Manifestation attached to which were photocopies of the front and dorsal portion of the return card *evidencing receipt by herein respondent of the documents* enumerated by Atty. Ochoa in her Compliance dated February 10, 1998. The return card is dated March 2, 1998.

"*To date, no response* has been forth coming from Atty. Agdeppa."[4]

For her continued defiance of orders of this Court for her to answer the administrative charges leveled against her, respondent was recommended to be penalized with a fine of ₱10,000.00 and suspension from practice for one (1) year in each of the two (2) cases pending against her.

Respondent filed a motion for reconsideration alleging that the petitions should be dismissed because she was not accorded her right to due process and that she could not answer the administrative charges against her without divulging certain pieces of information in violation of the attorney-client privilege.

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[4] Record No. AC 4426, Report of the Integrated Bar of the Philippines, Commission on Bar Discipline. Italics supplied.

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Respondent does not convince.

First. The respondent was given notice on various occasions but she chose to ignore them and failed to exercise her right to be heard.

Section 30, Rule 138 of the Rules of Court specifically provides that:

"*Sec. 30.* Attorney to be heard before removal or suspension.— No attorney shall be removed or suspended from the practice of his profession, until he has full opportunity upon reasonable notice to answer the charges against him, to produce witness in his behalf, and to be heard by himself or counsel. But if upon reasonable notice he fails to appear and answer the accusations, the court may proceed to determine the matter *ex parte*."

Since respondent repeatedly ignored the notices sent to her by this Court, we cannot be expected to wait indefinitely for her answer. While respondent may have changed her address and did not, thus, receive the previous notices, still, on March 2, 1998, she came to know of the Supreme Court Resolution dated June 19, 1995.[5] The prudent thing for her to do was to file an answer immediately and not to delay the matter any further. Sadly, the respondent ignored the Resolution[6] of the Supreme Court ordering her to file an answer.

Second. The request for the information regarding the sale of the property and to account for the proceeds is not a violation of the attorney-client privilege. Rule 130, Section 24 (b) of the Rules of Court provides:

"*Sec. 24. Disqualification by reason of privileged communication.*— The following persons cannot testify as to matters learned in confidence in the following cases:

x x x x x x x x x

(b) An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him, or his advice given

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[5] Record No. AC 4429, Omnibus Motion For Reconsideration and/or New Trial and/or Reinvestigation and Motion to Consolidate Above-Captioned Cases with Corresponding Answer or Comment, p. 7.

[6] Record No. AC 4429, Annex "12".

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thereon in the course of, or with a view to, professional employment, nor can an attorney's secretary, stenographer, or clerk be examined, without the consent of the client and his employer, concerning any fact the knowledge of which has been acquired in such capacity."

The information requested by petitioners is not privileged. The petitioners are only asking for the disclosure of the amount of the sale or account for the proceeds. Petitioners certainly have the right to ask for such information since they own the property as co-heirs of the late Ramon E. Saura and as co-administrators of the property. Hence, respondent cannot refuse to divulge such information to them and hide behind the cloak of the attorney-client relationship.

WHEREFORE, for the refusal of Atty. Lalaine Lilibeth Agdeppa to comply with our Resolutions dated June 7 and 19, 1995 directing her to file an answer to the petitions, the Court hereby penalizes her with a *FINE* of two thousand pesos (₱2,000.00) which should be paid within ten (10) days from receipt hereof; otherwise, a penalty of imprisonment for five (5) days shall be imposed. This resolution shall be immediately executory.

SO ORDERED.

Bellosillo, Mendoza, Quisumbing, and *Buena, JJ.*, concur.

SECOND DIVISION

[A.M. No. MTJ-99-1459. February 17, 2000]
(Formerly OCA IPI No. 97-342-RTJ)

VICTOR D. ONG, *complainant, vs.* **JUDGE VOLTAIRE Y. ROSALES, Regional Trial Court, Branch 83 Tanauan, Batangas,** *respondent.*

SYNOPSIS

In a sworn letter complaint dated March 16, 1997, complainant charged respondent judge of Misconduct and Abuse of Authority